

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant: Elly Tuti (Safari Transit)
155 Summer Street, Amherst, MA 01002

Date application filed with the Town Clerk: January 6, 2009

Nature of request: Special Permit to establish a taxi service under Section 3.340.3 of the Zoning Bylaw.

Address: 160 Old Farm Road (18C-21, PRP Zoning District).

Legal notice: Published on February 11 and February 18, 2009 in the Daily Hampshire Gazette and sent to abutters on January 23, 2009.

Board members: Jane Ashby, Albert Woodhull, Eric Beal

Submissions:

The petitioner submitted a packet of information with the application including:

- One (1) copy of the ZBA application filed with the Town Clerk, January 26, 2009;
- One (1) copy of a Town GIS map of the property, submitted by staff;
- One (1) copy of the completed Management Plan form;
- One (1) copy of a separate Management Plan for Safari Transit, dated January 26, 2009;
- One (1) copy of the Floor Plan for Safari Transit, dated January 26, 2009;
- One (1) copy of the Site Plan for Safari Transit, dated January 26, 2009;
- One (1) copy of a letter from the Building Commissioner dated January 14, 2009 allowing the office use associated with The Andanje Foundation.

Site Visit: February 24, 2009

Jane Ashby, Albert Woodhull and Eric Beal met with the applicant, Elly Tuti and the co-owner of the building, Timothy Grader, at the site and observed the following:

- The existing, one-story commercial building containing six offices, the existing on-site parking areas and dumpster located in the east corner of the parking lot;
- The general location of the five (5) parking spaces to be utilized by the applicant;
- The interior of unit C, to be occupied by the applicant's taxi service business and which contains separate office spaces to be shared with other businesses.

Public Hearing: February 26, 2009

The applicant, Elly Tuti, presented the following information related to the application:

- Safari Transit is a business that is not operational yet, but would like to start with two (2) vehicles and have the potential to expand to five (5) vehicles within the next two years;
- He picked the property on Old Farm Road because he has already established a non-profit business that will be operating out of a space in the building;
- He explained that communication with drivers will be by telephone and cell phones;

- He will be operating under a contract with Mass Health to pick up people and bring them to various destinations in area;
- He explained that Mass Health would provide Safari Transit with a list of destinations for the following day and the drivers would be given that information;
- He will operate the business from 7:00 A.M. to 7:00 P.M.;
- He stated that if the business expands, they will have one (1) employee to receive and manage delivery requests in the office.

Ms. Ashby asked if there would be only one employee in the office. Mr. Tuti replied that once his business expands, there may be one (1) employee in the office responsible for receiving and managing delivery requests. He stated that he may also be in the office if the business grows.

Ms. Ashby noted that the Management Plan stated that vehicle maintenance will be done by at local garages. Mr. Tuti confirmed that the vehicle repairs would be off-site at local mechanics.

Mr. Woodhull asked if he had been involved in this kind of business before. Mr. Tuti stated that he has driven taxis before in Springfield.

Mr. Woodhull asked if he has a contract with Mass Health now. Mr. Tuti stated that he cannot go into contract with Mass Health without first receiving a Special Permit.

Mr. Beal asked what the area of service will be. Mr. Tuti stated that he only knows of only one other company doing this type of service and that his target area would be anywhere within this region.

Staff asked for clarification about where the vehicles will be parked in the evening. The Board noted that the Management Plan states they will be parked on the site overnight. Mr. Tuti added that in the beginning he may have the drivers take the vehicles home with them and may only occasionally have the vehicles parked on the property overnight.

Mr. Woodhull asked what type of vehicles he would be operating and if they would be equipped for wheelchairs. Mr. Tuti stated that they are ordinary vehicles, such as cars or vans, and that he will not be transporting any people who require wheelchairs.

The Board asked if the Building Commissioner had any comments or concerns. She replied no.

The Board asked if any members of the public would like to speak. There were no comments.

Mr. Beal made a motion to close the evidentiary portion of the Public Hearing. Mr. Woodhull seconded the motion. The Board voted unanimously to close the Public Hearing.

Public Meeting:

Ms. Ashby asked the Board members if they had any concerns related to the application. The Board members stated that they do not have any concerns.

The Board spent the remainder of the Public Meeting discussing the conditions of the Special Permit.

Findings:

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings, required of all Special Permits, that:

10.380 and 10.381 – The proposal is suitably located in the neighborhood in which it is proposed and is compatible with existing uses and other uses in the district. The permitted use, including the office use and associated vehicle parking spaces comply with the intent of the PRP District. There are no immediately abutting residences or other uses that would be affected. The office space is existing and the taxi service will not be conducting pick-ups or drop-offs of patrons on-site. The Zoning Bylaw does not specifically address taxi/chauffeur type uses. The Building Commissioner has established a policy that such uses operating more than two (2) vehicles shall require approval by Special Permit under Section 3.340.3 of the Zoning Bylaw.

10.382, 10.383 and 10.385 – The proposal will not constitute a nuisance due to air pollution, lights or visually offensive structures; will not be a substantial inconvenience or hazard to abutters; and reasonably protects adjoining premises. There are no changes to the exterior of the existing building nor will any expansion of the parking area be needed as part of this Special Permit. The use will not constitute nuisances such as air pollution, lights or visually offensive structures because the existing building is not being altered, no change in lighting is proposed, a small number of vehicles is involved in this use, and the hours of operation are limited. There are no immediately abutting residences or other uses that would be affected by operation of this use even if it had more significant impacts. The property is located in the PRP Zoning District and contains adequate parking facilities and vehicle access that will not be an inconvenience or hazard to abutters.

10.384 and 10.387 - Adequate and appropriate facilities will be provided for the proper operation of the use and will provide convenient and safe movement. The applicant has submitted a Management Plan for the operation of the taxi service including a maximum of six (6) employees, a maximum of five (5) vehicles and hours of operation from 7:00 A.M. to 7:00 P.M. seven (7) days a week. The existing building contains adequate office space for the taxi service business to operate day to day. The existing parking lot contains adequate parking spaces for the five (5) vehicles that may operate under this Special Permit. The permit requires that all vehicle maintenance occur off-site and there will not be any pick-ups or drop-offs of patrons on-site.

10.386 - The proposal ensures that it is in conformance with the Parking and Sign regulations (Articles 7 and 8, respectively) of this Bylaw. The applicant proposes a sign in conformance with the requirements of Article 7. The parking spaces dedicated to the use are adequate during peak hours of operation in accordance with Section 7.2 of the Bylaw.

10.388 - The proposal ensures adequate space for the off-street loading and unloading of vehicles, goods, products, materials and equipment incidental to the normal operation of the establishment or use. There will be no unloading of goods or products as a result of this Special Permit. The permit requires that all vehicle maintenance occur off-site and there will not be any pick-ups or drop-offs of patrons on-site.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw and promotes the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst. The proposal does not include any changes to the exterior of the existing building, parking area or lighting. The property contains adequate parking spaces for the storage of the five (5) vehicles associated with the permitted use and the other uses in the building. The permitted use will provide a service to members of the public.

Public Meeting - Zoning Board Decision:

Mr. Beal made a motion to APPROVE the application, with conditions. Mr. Woodhull seconded the motion.

For all the reasons above, the Board VOTED unanimously to grant a Special Permit to establish a taxi service, to be known as Safari Transit, under Section 3.340.3 of the Zoning Bylaw with office space, as applied for by Elly Tuti, at 160 Old Farm Road (Map 18C, Parcel 21, PRP Zone), with conditions.

JANE ASHBY

ALBERT WOODHULL

ERIC BEAL

FILED THIS _____ day of _____, 2009 at _____,
in the office of the Amherst Town Clerk _____.
TWENTY-DAY APPEAL period expires, _____ 2009.
NOTICE OF DECISION mailed this _____ day of _____, 2009
to the attached list of addresses by _____, for the Board.
NOTICE OF PERMIT or Variance filed this _____ day of _____, 2009,
in the Hampshire County Registry of Deeds.

Town of Amherst
Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit, ZBA FY2009-00023, to establish a taxi service, to be known as Safari Transit, under Section 3.340.3 of the Zoning Bylaw with office space, as applied for Elly Tuti, at 160 Old Farm Road (Map 18C, Parcel 21, PRP Zone), with the following conditions:

1. The business shall operate in accordance with the Management Plan approved by the Zoning Board of Appeals on February 26, 2009;
2. The hours of operation of the vehicles shall be between 7:00 A.M. to 7:00 P.M., seven (7) days a week;
3. There shall be no maintenance of vehicles on the premises;
4. There shall be no more than five (5) vehicles associated with this use parked on the premises;
5. The vehicles shall be parked in the locations shown on the site plan approved by the Zoning Board of Appeals on February 26, 2009;
6. The office shall be in the location as shown on the floor plan approved by the Zoning Board of Appeals on February 26, 2009;
7. There shall be a maximum of six (6) employees associated with this use, and no more than two (2) employees in the office at any one time;
8. There shall be no pick-ups or drop-offs of patrons on-site;
9. This permit shall expire upon change of ownership of the business.

JANE ASHBY, acting Chair
Amherst Zoning Board of Appeals

DATE